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**THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

MARVIN HILL,

Defendant and Appellant.

F077453

(Super. Ct. No. CF87371790)

**OPINION**

**THE COURT\***

APPEAL from an order of the Superior Court of Fresno County. John F. Vogt, Judge.

Conness A. Thompson, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Detjen, Acting P.J., Meehan, J. and Smith, J.

## INTRODUCTION

Marvin Hill was committed to a state mental hospital as a mentally disordered offender (MDO) pursuant to Penal Code sections 2962 and 2970.<sup>1</sup> This appeal is from the order of the superior court extending Hill's commitment pursuant to section 2972. Hill's appellate counsel has filed a brief seeking independent review of the case by this court pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We affirm the trial court's order extending Hill's commitment to a state hospital for mental health treatment.

## FACTS AND PROCEEDINGS

On November 29, 2017, the People filed a petition to continue Hill's treatment in a state mental health hospital pursuant to the process and procedures set forth in section 2972. Hill's maximum term of confinement was due to expire on May 13, 2018. Hospital staff at Patton State Hospital believed that Hill's mental disorder was not in remission or could not be kept in remission without treatment.

Those treating Hill, Staff Psychologist Sunah Kim and Staff Psychiatrist Juvvala Reddy, prepared a report for the hearing. In 1986, while on probation, Hill committed a rape by force and fear. The victim reported that Hill was acting abnormally and was either intoxicated, mentally unstable, or both. Hill was admitted to a state mental hospital as an MDO pursuant to section 2962.<sup>2</sup> He was later released to a Conditional Release Program (CONREP) in Fresno County. Hill absconded from CONREP and was arrested in San Francisco in 1996 for public intoxication and assault of a police officer. Hill was recommitted to a state mental hospital in 1996.

The doctors found that Hill met the three criteria for continued commitment. Criterion A is that Hill has a severe mental disorder as defined by section 2962,

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<sup>1</sup> All statutory references are to the Penal Code.

<sup>2</sup> Section 2962, subdivision (a)(1) creates as a condition of parole that a prisoner may be committed to a state mental hospital if the prisoner has "a severe mental disorder that is not in remission or that cannot be kept in remission without treatment."

subdivision (a). Hill's extensive history of mental illness, beginning at age 18, includes multiple hospitalizations for severe mental illness symptoms, two suicide attempts, a history of self-injurious behavior, and noncompliance with taking prescribed medications. He also abused drugs and alcohol. Hill's psychiatric condition was chronic and included psychotic symptoms such as auditory hallucinations and delusional thoughts. As of fall 2017, Hill reported having heard voices within the previous couple of months.

Criterion B is that Hill's mental condition is not in remission because he evidences symptoms of a severe mental disorder which includes auditory hallucinations and grandiose delusions. These included beliefs that he was a millionaire and owned a mansion in Oakland and hotels in Fresno. Hill claimed to have three wives, several girlfriends, and more than 30 children. Despite continued psychosis, Hill was maintaining behavioral stability with no incident of serious violence for an extended time. While in the hospital, Hill took his medication, followed the rules, and attended to his hygiene. In January 2017, however, Hill presented with increased psychosis, irritability, and social friction and his antipsychotic medication had to be changed.

Despite his crime and clinical support addressing Hill's pedophilic sexual interest, he adamantly denied having any sort of sexually deviant thoughts or interests. Hill believed he was hospitalized for petty theft and the victim of his sexual assault offered him sex in exchange for gas money. Hill acknowledged past abuse of alcohol but reported he was fully recovered and not in need of substance recovery treatment.

Criterion C is that Hill represents a substantial danger of physical harm to others by reason of his severe mental disorder. The doctors reported that Hill remained symptomatic and lacked insight into his mental illness as well as its impact on his risk for future dangerousness. Although Hill was actively psychotic, he lacked awareness of his mental illness. Hill's involvement in treatment was poor and he was unmotivated to work toward being discharged. Hill was enrolled in only two core treatment groups a

week and refused to attend sex offender and substance recovery treatment. Hill failed to demonstrate constructive coping skills that are likely to circumvent the risk for future relapse, decompensation and violence. Hill believed he was ready for discharge from the hospital because he had been hospitalized for such a long time.

Hill had no viable plan to prevent future sexual violence, substance relapse, or psychiatric instability. Hill was adherent to taking his prescribed medications, committed no violent acts during the reporting period, and followed hospital rules and regulations. He did have psychiatric decompensation in February 2017 and acted aggressively toward another patient. Hill had sexual interests in young male and female children. While the structured and supervised environment of the hospital helped Hill to control his impulsivity and assaultive behavior, the doctors concluded Hill remained at risk for violent behavior, and his risk of offending in a violent manner would increase significantly in a less structured environment with access to drugs and alcohol. The doctors recommended that Hill's civil commitment be extended pursuant to section 2972.

The recommitment hearing was conducted on April 2 and 3, 2018. The parties waived their right to a jury trial. Dr. Sunah Kim testified that she was currently a clinical psychologist treating patients at Patton State Hospital. Hill was Dr. Kim's patient. Dr. Kim explained that she did not solely decide Hill's diagnosis because it was a team decision reached through collaboration. Dr. Kim stated that Hill had schizoaffective disorder, substance related disorders, and a paraphilic disorder. Schizoaffective disorder is a combination of a thought disorder and a mood disorder. Hill was consistently observed responding to internal stimuli which made it difficult for him to engage in group sessions. He suffers from adult antisocial behavior.

Hill displayed psychotic symptoms, including delusions and hallucinations. He was taking psychotropic medications including antipsychotic medications and mood stabilizers. Hill demonstrated grandiose and paranoid delusions, including that he was married to Mariah Carey and was an Oakland Raider quarterback. Hill believed he had

won multiple Super Bowls. Hill was currently enrolled in only one core group in dialectical behavior therapy, but Dr. Kim thought he should also be in substance recovery treatment and sex offender treatment. Hill also needed to be working on relapse prevention planning and participating in groups that would help him understand his mental illness. The only criminal history Hill acknowledged was committing petty theft. Hill denied committing any prior sex offense. Hill controlled his violent behavior fairly well within the hospital environment.

Dr. Kim did not believe Hill's illness was in remission. Hill had not attended group sessions for the past couple of months. Dr. Kim explained that Hill was being assisted "24/7 in a very highly structured setting." At the time of the hearing, Dr. Kim did not believe Hill could function in a less restrictive setting. Furthermore, Hill had not participated in any sexual violence risk assessment. Hill was not a good candidate for CONREP at the time of the hearing. Even actively psychotic individuals, such as Hill, can be recommended for community release if the person works openly and collaboratively with the team. Although Hill was compliant with taking his medications, he was not fully open and collaborative. Dr. Kim was especially concerned that Hill was highly guarded and minimized his symptoms. The last time Hill was on CONREP, he absconded.

The court found beyond a reasonable doubt that Hill suffers from a severe mental disorder as defined by section 2962, subdivision (a), a paraphilic disorder, and substance abuse disorders, and Hill exhibits adult antisocial behavior. The court further found beyond a reasonable doubt that Hill's conditions were not in remission and he posed a substantial danger of physical harm to others by reason of his severe disorders. The court also found that Hill was reluctant to participate in any type of further clinical assessments to determine the full extent of risk of physical harm he posed to others. The court found beyond a reasonable doubt that the criteria for recommitment were met under

section 2972 and ordered Hill's further commitment to the state mental hospital for continued treatment.

### **APPELLATE COURT REVIEW**

Hill's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court review the record independently. (*Wende, supra*, 25 Cal.3d 436.) The opening brief also includes the declaration of counsel indicating Hill was advised he could file his own brief with this court. By letter on November 8, 2018, we invited Hill to submit additional briefing. To date, he has not done so.

After independent review of the record, we conclude there are no reasonably arguable legal or factual issues.

### **DISPOSITION**

The judgment is affirmed.